


COUNTY OF YORK

MEMORANDUM

DATE: September 6, 2006 (BOS Mtg. 9/19/06)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Application No. ZT-105-06, York County Board of Supervisors: Proposed Zoning Ordinance Text Amendments - Pawn Shops/Tattoo Parlors/Payday Loan Establishments

Issue

This application, which is sponsored by the Board of Supervisors, proposes amendments to Chapter 24.1, Zoning, of the York County Code to:

- define the term “payday loan establishment”;
- establish a Special Use Permit requirement for tattoo parlors, pawn shops and payday loan establishments;
- establish performance standards prohibiting the location of such establishments within 2,640 feet (1/2 mile) of places of worship, public, parochial or private schools, public libraries, or public parks/athletic fields; and
- establish distinct off-street parking requirements for such uses.

Background

1. This application was sponsored by the Board of Supervisors subsequent to discussions that took place during the Board’s February 2006 Annual Retreat about the condition, character and appearance of the County’s commercial corridors. The subject land uses – tattoo parlors, pawn shops and payday loan establishments – were identified as being potentially incompatible with the Board’s objectives for enhancement of commercial corridors and the County in general. As a follow-up to the February discussions, the Board commissioned a public opinion survey by Continental Research Associates (the County’s on-call public opinion survey consultant) to solicit additional input concerning these land uses. Copies of the Methodology, Margin of Error and Highlights sections of the consultant’s report are attached.

Based on the survey results, public opinion on these types of establishments can be summarized as follows:

- A majority favors a Special Use Permit requirement for each of the three types of establishments.
- A majority believes that payday loan establishments are substantially dif-

ferent from banks and should be defined and categorized separately.

- Slightly over 50% of the respondents believe that tattoo parlors should not be allowed in GB-General Business districts or in visible locations along major commercial corridors. Similar responses for pawn shops and payday loan establishments were in the 42-49% range.
 - A majority (ranging from 66% to 77%) believes that none of the three types of establishments should be located within ½ mile of schools, churches, libraries, parks or athletic fields.
 - Only about one-third of the respondents believe they are so problematic that the County should seek special legislation to obtain the authority to completely prohibit them.
2. Currently, tattoo parlors and pawn shops are permitted only by Special Use Permit in the GB-General Business zoning district. The proposed amendments would eliminate the opportunities for tattoo parlors in GB Districts and, instead, provide that they could be located only in an IL-Limited Industrial district and only by Special Use Permit. Pawn shops would continue to be allowed by Special Use Permit in the GB district.

Payday Loan establishments are not currently identified as a separate and distinct land use and, without that distinction, have been categorized under the “banks / financial institutions” listing. Banks / financial Institutions are permitted as a matter-of-right in the NB, LB, GB and EO districts. Under the proposed amendment, Payday Loan establishments would be separately defined (tracking the definition in Section 6.1-444 of the Code of Virginia) and would become a use permitted only by Special Use Permit and only in the GB district.

3. The proposed regulations contain a performance standard that would prevent the location of any of the subject uses within ½-mile (2,640 feet) of a property occupied by: a place of worship; a public, parochial or private school (K-12); a public library; or a public park or athletic field. A map depicting the areas of the County that would be eligible for consideration is attached (Map 1). Under this proposal, eligible GB areas (i.e., for pawn shops and payday loan establishments) would include the Richmond Road commercial area at the Lightfoot Road intersection, the Route 60/Route 132 intersection, the Route 60/Route 143 commercial areas south of Route 199, an area near the Commonwealth Drive/Village Avenue intersection and an area along Route 17 south of Route 171. Eligible IL areas (i.e., for tattoo parlors) would include the Penniman Road area east of I-64, the Route 60 corridor south of Route 199, and the IL area south of the Kiln Creek commercial area.

The proposed performance standards also include a provision that would prohibit the principal building façade and any wall or freestanding signage associated with a tattoo parlor from being visible from any Primary System roadway.

4. Amendments to Section 24.1-606 are proposed to establish specific off-street parking standards for tattoo parlors and payday loan establishments (1 space/200 square feet and 1 space/350 square feet, respectively). Pawn shops would be subject to the parking standards applicable to all Business/Professional Service uses (1 space/350 square feet).

Considerations

1. The basic premise of the Board's proposed amendment package is that tattoo parlors, pawn shops and payday loan establishments are "destination" uses as opposed to "impulse" uses and, as such, do not require the visibility that might be associated with location on a major commercial corridor. Furthermore, the proposal is based on the premise that when such uses are visible from and proximate to certain types of land uses (schools, libraries, parks, places of worship) those land uses, and the areas within which they are located, can be adversely impacted. Hence, the proposed performance standard establishing the 1/2-mile separation requirement.
2. It is important to note that the proposed amendments would not prohibit the subject land uses in the County. While Section 15.2-2280 of the Code of Virginia expressly authorizes total prohibition of specific land uses, the County Attorney has advised that any move to do so should be grounded on specific findings as to problematic land use characteristics (for example: excessive traffic generation, excessive noise, odor or glare, etc.). Experience with the two existing tattoo parlors, one pawn shop and several payday loan establishments indicates that traffic generation is relatively low and that the operations are relatively inconspicuous, both of which suggest that an outright prohibition could be difficult to sustain if challenged.
3. Section 15.2-2283, Purpose of zoning ordinances, Code of Virginia provides authority for the adoption of regulations to, among various other purposes, "facilitate the creation of a convenient, attractive and harmonious community" and to "encourage economic development activities that provide desirable employment and enlarge the tax base." Local governing bodies have the legislative prerogative to consider various factors and to choose among various regulatory techniques to accomplish these and other purposes. In this amendment proposal, the Board is recognizing and considering the potentially negative impact that the subject land uses could have on the character of certain areas of the County.
4. Applications concerning tattoo parlors and pawn shops, historically, have been cause for concern by nearby property owners and citizens. The public opinion survey indicates the prevailing sentiment to pay careful attention to the location of such uses, including payday loan establishments, and to avoid locations that are near significant public or semi-public facilities, particularly those that are likely to be visited by children. The proposed amendments would basically memorialize the locational and community character considerations that have been discussed and taken into account in connection with past proposals. In addition, they recog-

nize the desirability of the site-by-site, case-by-case review procedures that would be provided through the Special Use Permit process. While the separation distance recommended in the proposed amendments is ½-mile, alternate distance criteria could be considered.

Planning Commission Recommendation

The Planning Commission considered this application at its August 9, 2006 meeting and, subsequent to conducting a public hearing at which there were no speakers, voted 7:0 to recommend approval of the proposed amendments.

County Administrator's Recommendation

Although there are no significant traffic or noise impacts associated with the subject uses, there is a potential for adverse impact on the character of the area in which located, on the perception of the County's commercial areas and surrounding properties by its citizens and visitors and, commensurately, a potential for adverse impact on the value of those properties. By establishing specific locational standards and performance standards, the proposed regulations support the protection of property values and the creation of a stable and harmonious community as envisioned by the Code of Virginia and the York County Comprehensive Plan. I support the Planning Commission's recommendation concerning this application and recommend that the proposed text amendments be approved through the adoption of proposed Ordinance No. 06-21.

Carter/3337

Attachments:

- Excerpts – Planning Commission Minutes, August 9, 2006
- Continental Research survey results
- Map 1 – Eligible Areas
- Proposed Ordinance No. 06-21